

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

ANTONIO J. FLORES a/k/a TINO FLORES
308 Fargo Avenue
Buffalo, New York 14213,

Plaintiff,

v.

THE DIOCESE OF BUFFALO, NEW YORK
795 Main Street
Buffalo, New York 14203,

FRANCISCAN FRIARS OF THE PROVINCE OF THE
MOST HOLY NAME OF JESUS a/k/a
FRANCISCAN FRIARS HOLY NAME PROVINCE a/k/a
HOLY NAME PROVINCE
129 West 31st Street, 2nd Floor
New York, New York 10001,

ST. BONAVENTURE FRIARY, FRANCISCAN FRIARS
1 Friary Circle, St. Bonaventure University
St. Bonaventure, New York 14778, and

BISHOP TIMON – ST. JUDE HIGH SCHOOL a/k/a
BISHOP TIMON HIGH SCHOOL
601 McKinley Parkway
Buffalo, New York 14220,

Defendants.

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action, and to serve a copy of your Answer or, if the Complaint is not served with a Summons, to serve a Notice of Appearance, on Plaintiff's attorney within **twenty** (20) days after the service of this Summons, exclusive of the day of service, or within **thirty** (30) days after completion of service where service is made in any other manner than by personal delivery within the State. In case of

{H2229903.1}

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HOGANWILLIG

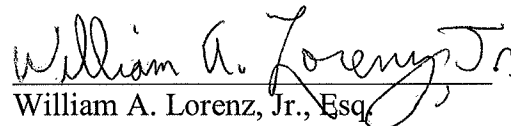
Attorneys at Law

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your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

This action is brought in ERIE COUNTY based upon Plaintiff's residence and the locations of the incidents.

DATED: June 26, 2019
Amherst, New York



William A. Lorenz, Jr., Esq.

Steven M. Cohen, Esq.

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STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

ANTONIO J. FLORES a/k/a TINO FLORES,

Plaintiff,

v.

THE DIOCESE OF BUFFALO, NEW YORK,
FRANCISCAN FRIARS OF THE PROVINCE OF THE
MOST HOLY NAME OF JESUS a/k/a
FRANCISCAN FRIARS HOLY NAME PROVINCE a/k/a
HOLY NAME PROVINCE,
ST. BONAVENTURE FRIARY, FRANCISCAN FRIARS, and
BISHOP TIMON – ST. JUDE HIGH SCHOOL a/k/a
BISHOP TIMON HIGH SCHOOL,

Defendants.

**VERIFIED
COMPLAINT**

Index No.:

Plaintiff ANTONIO J. FLORES a/k/a TINO FLORES, by and through his attorneys, HOGANWILLIG, PLLC, as and for his Verified Complaint against Defendants THE DIOCESE OF BUFFALO, NEW YORK (“DIOCESE”), FRANCISCAN FRIARS OF THE PROVINCE OF THE MOST HOLY NAME OF JESUS a/k/a FRANCISCAN FRIARS HOLY NAME PROVINCE a/k/a HOLY NAME PROVINCE (“HOLY NAME PROVINCE”), ST. BONAVENTURE FRIARY, FRANCISCAN FRIARS (“ST. BONAVENTURE FRIARY”), and BISHOP TIMON – ST. JUDE HIGH SCHOOL a/k/a BISHOP TIMON HIGH SCHOOL (“BISHOP TIMON”) herein, alleges as follows:

1. At all times hereinafter mentioned, Plaintiff was and still is a resident of the City of Buffalo, County of Erie, and State of New York.
2. Upon information and belief, and at all times hereinafter mentioned, Defendant DIOCESE was and is a Roman Catholic diocese headquartered in Buffalo, New York, with its

principal place of business located at 795 Main Street, Buffalo, County of Erie, and State of New York.

3. Upon information and belief, and at all times hereinafter mentioned, Defendant HOLY NAME PROVINCE was and is a province of a worldwide religious order of the Roman Catholic Church known as the Order of Friars Minor ("O.F.M."), with its principal place of business/Provincial Office located at 129 West 31st Street, 2nd Floor, New York City, State of New York.

4. Upon information and belief, and at all times hereinafter mentioned, Defendant ST. BONAVENTURE FRIARY was and is a ministry owned and operated by Defendant HOLY NAME PROVINCE, with its principal place of business located at 1 Friary Circle, St. Bonaventure University, St. Bonaventure, New York 14778.

5. Upon information and belief, and at all times hereinafter mentioned, Defendant BISHOP TIMON was and is a Roman Catholic high school located at 601 McKinley Parkway, Buffalo, County of Erie, and State of New York, which changed its name from Bishop Timon High School to Bishop Timon – St. Jude High School in or about 1993.

6. Upon information and belief, and at all relevant times herein, Defendant BISHOP TIMON was operated by Defendant DIOCESE.

7. Upon information and belief, and at all times hereinafter mentioned, Defendants HOLY NAME PROVINCE and ST. BONAVENTURE FRIARY conducted activities in Erie County, New York, including providing friars to various schools, churches, and parishes owned and operated by Defendant DIOCESE and at the request of Defendant DIOCESE in the County of Erie and State of New York, including Defendant BISHOP TIMON.

FACTS COMMON TO ALL CLAIMS

8. Upon information and belief, Father Linus Hennessy, O.F.M. ("Fr. Hennessy"), date of birth June 28, 1918, was a member of the Order of Friars Minor who became incorporated into Defendant HOLY NAME PROVINCE on or about October 2, 1960.

9. Upon information and belief, Fr. Hennessy was assigned via Defendants HOLY NAME PROVINCE, ST. BONAVENTURE FRIARY, and DIOCESE to Defendant BISHOP TIMON in or about the 1960s.

10. Through his positions at, within, or for Defendants, Fr. Hennessy was put in direct contact with Plaintiff, beginning in the early 1970s.

11. Specifically, Fr. Hennessy was assigned to assist Plaintiff's mother with the raising of her four children, including Plaintiff, in or about 1973.

12. From approximately 1973 through 1978, Plaintiff was the victim of sexual harassment, sexual abuse, and violence by or at the direction of Fr. Hennessy, and with the acquiescence, approval, participation, and implied permission of Defendants.

13. Upon information and belief, Fr. Hennessy's sexual abuse began when Plaintiff was approximately ten years old.

14. Some of the incidents experienced by Plaintiff over a period of five (5) years included, but are not limited to, the following:

- a. Fr. Hennessy first began "grooming" Plaintiff to feel comfortable being alone with Fr. Hennessy at the home of Plaintiff's mother, while Plaintiff's mother was at work, as well as on the premises of Defendant BISHOP TIMON.

- b. On numerous occasions, Fr. Hennessy would touch Plaintiff inappropriately, including placing his hand on Plaintiff's thigh and making Plaintiff touch Fr. Hennessy's thigh and groin.
 - c. On numerous occasions, Fr. Hennessy would unzip his pants and make Plaintiff touch Fr. Hennessy's genitals until Fr. Hennessy climaxed.
 - d. On numerous occasions, Fr. Hennessy made Plaintiff kneel and perform oral sex on him.
 - e. On numerous occasions, Fr. Hennessy would attempt to perform anal sex on Plaintiff but was unable to do so due to his size.
 - f. After every encounter, Fr. Hennessy would tell Plaintiff never to tell anyone what had happened, even offering Plaintiff money to keep quiet on several occasions.
15. Upon information and belief, Fr. Hennessy died on May 9, 1983.
16. Plaintiff filed a complaint for the abuse suffered at the hands of Fr. Hennessy with an intake counselor for Defendant Diocese on or about May 29, 2008.
17. Plaintiff met with Edward Coughlin, OFM, Liaison for the Protection of Children from Defendant HOLY NAME PROVINCE, after the filing of Plaintiff's complaint.
18. Defendants HOLY NAME PROVINCE and ST. BONAVENTURE FRIARY have paid Plaintiff for counseling fees since learning of the abuse by Fr. Hennessy in 2008.
19. Venue is proper based on Plaintiff's residence and the locations of the incidents.
20. This action is brought pursuant to CPLR § 214-G, as added by the New York Child Victims Act, which has revived claims of child sexual abuse for a period of one year

beginning on August 14, 2019, six months after the effective date of the section (February 14, 2019). This action is timely commenced.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS: NEGLIGENCE

21. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "20" as though more fully set forth herein.

22. Fr. Hennessy, as an agent, servant and/or employee of Defendants, was a religious figure and educator who had physical custody of Plaintiff before, during, and after the school day, before, during, and after school activities, and owed Plaintiff a duty of care.

23. Defendants were *in loco parentis* and owed Plaintiffs a duty of care.

24. Defendants breached their duty of care owed to Plaintiff when they allowed Plaintiff to be in contact with Fr. Hennessy.

25. Defendants knew or should have known of the sexual abuse, sexual harassment, and violence occurring at Plaintiff's mother's home and on the premises of Defendant BISHOP TIMON and breached their duty owed to Plaintiffs when they failed to report the sexual abuse, sexual harassment, and violence occurring on the premises of Defendant BISHOP TIMON and Plaintiff's mother's home and failed to remove Fr. Hennessy.

26. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for his own physical safety.

27. As a result of Defendants' breach, Plaintiff has incurred and will incur medical costs to treat their past, present, and future psychological suffering as a result of being a victim of sexual abuse, sexual harassment, and violence while in Fr. Hennessy's control at Plaintiff's mother's home and on the premises of Defendant BISHOP TIMON.

28. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS:
FAILURE TO REPORT

29. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "28" as though more fully set forth herein.

30. Defendant BISHOP TIMON, through its agents, servants, and employees, were Mandated Reporters under New York Social Services Law.

31. Defendants, through their agents, servants, and employees, had reasonable cause to suspect that Plaintiff was being abused and/or maltreated by Fr. Hennessy over the five (5) year period of 1973 – 1978.

32. Defendants, through their agents, servants, and employees, knowingly and willfully failed to report the suspected child abuse or maltreatment to anyone, including the police or Child Protective Services.

33. Defendants did not provide their employees with written information on reporting requirements.

34. Defendants failed to follow the policies of required reporting including, but not limited to, the policies listed in the Code of Conduct for Priests, Deacons, Pastoral Ministers, Administrators, Staff and Volunteers, as well as New York Consolidated Laws, Social Services Law - SOS § 413.

35. Defendants are liable for the failure to report pursuant to New York Consolidated Laws, Social Services Law - SOS § 420.

36. The knowing and willful failure of Defendants, through the inaction of their agents, servants, and employees, to report the child abuse and maltreatment of Plaintiff was a proximate cause of Plaintiff's damages.

37. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS:
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

38. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "37" as though more fully set forth herein.

39. During the time period of approximately 1973 to 1978, Defendants allowed Fr. Hennessy unrestricted access to Plaintiff and willfully and/or intentionally ignored complaints against Fr. Hennessy of sexual abuse, sexual harassment, and violence.

40. During the time period referenced above, Defendants willfully and/or intentionally ignored Plaintiff's safety by requiring and allowing Plaintiff to be watched by Fr. Hennessy by himself before, during, and after school.

41. Defendants were deliberately indifferent to the risk of sexual harassment and violence posed to Plaintiff by being alone with Fr. Hennessy.

42. Defendants willfully and/or intentionally created a hostile and unsafe religious and educational environment that no child would be able to tolerate.

43. Defendants, in order to avoid embarrassment, scandal, and negative publicity, intended to cause Plaintiff shame, humiliation, and extreme emotional distress so he would stay silent, and not report the abuse.

44. Defendants behaved in a manner toward Plaintiff that was so outrageous as to exceed all reasonable bounds of decency.

45. Defendants knew with substantial certainty or should have known that their behavior would cause Plaintiff to be a victim of sexual abuse, sexual harassment, and violence.

46. Defendants knew with substantial certainty or should have known that their behavior would cause severe emotional distress to Plaintiff.

47. The foregoing acts of Defendants caused Plaintiff physical, mental and emotional distress.

48. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

49. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "48" as though more fully set forth herein.

50. Defendants were negligent when they allowed Plaintiff to continue to be exposed to Fr. Hennessy after being provided with allegations of sexual harassment, sexual abuse, and violence committed by Fr. Hennessy.

51. Defendants knew or should have known this inaction would subject Plaintiff to further sexual harassment, sexual abuse, and violence, and knew or should have known this would unreasonably endanger Plaintiff's safety, cause them to fear for their safety, and cause them severe emotional distress.

52. Defendants owed a duty to Plaintiff to protect them from sexual harassment, sexual abuse, and violence from Fr. Hennessy, including but not limited to when on the premises of Defendant BISHOP TIMON.

53. Defendants breached the duty owed to Plaintiff to protect them from sexual abuse, sexual harassment, and violence from Fr. Hennessy, including but not limited to when on the premises of Defendant BISHOP TIMON.

54. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

55. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS: NEGLIGENT
HIRING**

56. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "55" as though more fully set forth herein.

57. Defendants owed Plaintiff a duty of care to supervise and protect Plaintiff.

58. Defendants were obligated to Plaintiff to hire and/or assign personnel, including religious staff such as Fr. Hennessy, to ensure that the children assigned said personnel would be in a safe educational and religious environment.

59. Defendants knew or should have known at the time of Fr. Hennessy's assignment to Defendant HOLY NAME PROVINCE, ST. BONAVENTURE FRIARY, and BISHOP TIMON of his propensity for the conduct which caused the injury.

60. Plaintiff was the victim of sexual abuse, sexual harassment, and violence by or at the direction of Fr. Hennessy.

61. Defendants breached their duty of care to Plaintiff when they negligently hired Fr. Hennessy.

62. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

63. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT SUPERVISION AND RETENTION

64. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "63" as though more fully set forth herein.

65. Defendants owed Plaintiff a duty of care to supervise and protect Plaintiff.

66. Defendants were obligated to Plaintiff to supervise the personnel assigned to watch Plaintiff, including but not limited to while on the premises of Defendant BISHOP TIMON, to ensure that Plaintiff was in a reasonably safe environment.

67. Plaintiff was the victim of sexual abuse, sexual harassment, and violence by or at the direction of Fr. Hennessy.

68. Defendants had knowledge or should have had knowledge of the sexual abuse, sexual harassment, and violence by or at the direction of Fr. Hennessy and negligently ignored the reports of the sexual abuse, sexual harassment, and violence by or at the direction of Fr. Hennessy until 2008.

69. Defendants did not terminate the employment or suspend the religious duties of Fr. Hennessy despite reports concerning the sexual abuse, sexual harassment and violence committed by Fr. Hennessy.

70. Defendants breached their duty of care to Plaintiff when they negligently supervised and retained Fr. Hennessy.

71. Plaintiff suffered severe emotional and mental suffering and distress due to Defendants' actions, as well as fear for their own physical safety.

72. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

AS AND FOR AN SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS:
PUNITIVE DAMAGES

73. Plaintiff repeats, reiterates, and realleges each and every allegation contained in paragraphs "1" through "72" as though more fully set forth herein.

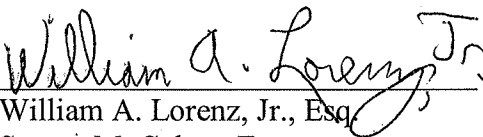
74. Defendants' knowledge of the violence, sexual harassment, and/or misconduct against Plaintiff by or at the direction of Fr. Hennessy over a five (5) year period of 1973-1978, including but not limited to while on the premises of Defendant BISHOP TIMON, is tantamount to a wanton and conscious disregard for the safety of Plaintiff and others, and warrants the imposition of punitive damages.

75. By reason of the malicious, intentional, willful, and/or negligent conduct of Defendants herein, and by such other acts that were morally reprehensible, Defendants' conduct evidenced a callous disregard for the safety of Plaintiff, and said acts constituted a wanton, reckless and/or malicious disregard for the rights of others and, as a result thereof, Plaintiff demands punitive damages.

76. By reason of the foregoing, Plaintiff has been damaged in an amount exceeding the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against Defendants in an amount which exceeds the jurisdictional limits of all other courts which might otherwise have jurisdiction, and for such other and further relief to Plaintiff as this Court deems just and proper.

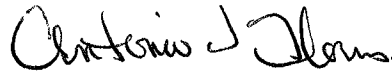
DATED: June 26, 2019
Amherst, New York


William A. Lorenz, Jr., Esq.
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HoganWillig, PLLC
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VERIFICATION

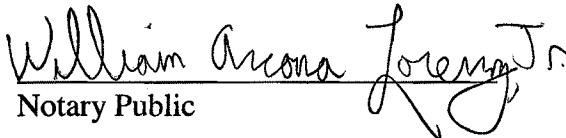
STATE OF NEW YORK)
COUNTY OF ERIE) ss:
)

ANTONIO J. FLORES a/k/a TINO FLORES, being duly sworn, deposes and says that: I am the Plaintiff herein; I have read the annexed Complaint and know the contents thereof, and the contents are true to my knowledge, except those matters alleged upon information and belief, and as to those matters, I believe them to be true:



ANTONIO J. FLORES a/k/a TINO FLORES

Sworn to before me this 26th day of
JUNE, 2019


Notary Public

William Arcona Lorenz Jr
Notary Public, State of New York
Qualified in Erie County
Lic. # 02LO6285770
Commission Expires July 15, 2021